

IN THE UNITED STATES DISTRICT COURT  
IN THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
CIVIL ACTION NO. 3:21-cv-299

HEATHROW ON HARRIS  
HOMEOWNER'S ASSOCIATION, A  
NORTH CAROLINA CORPORATION,

Plaintiff,

v.

WESTFIELD INSURANCE COMPANY,

Defendant.

**NOTICE OF REMOVAL**

PLEASE TAKE NOTICE that Defendant, Westfield Insurance Company (hereinafter “Defendant”), hereby removes this action from the Superior Court of Mecklenburg County to the United States District Court for the Western District of North Carolina.

**I. NATURE OF ACTION**

1. This matter arises from a property insurance claim made by Plaintiff pursuant to a policy of insurance issued to Plaintiff by Defendant as a result of storm damage allegedly occurring on July 10, 2018. *Complaint*, ¶11.

**II. NOTICE OF REMOVAL IS TIMELY**

2. Defendant was served with a copy of the Summons and Complaint on May 28, 2021.

3. Pursuant to 28 U.S.C. § 1446(b), this Notice of Removal is timely as it was filed within 30 days of service of process on Defendant. “The notice of removal of a civil action or proceeding shall be filed within thirty days after the receipt by the Defendant, through service or

otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based ...” 28 U.S.C. § 1446(b) (1996).

### **III. FEDERAL JURISDICTION EXISTS**

4. Pursuant to 28 U.S.C. § 1332(a), as set forth below, complete diversity exists and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs. Accordingly, this Court has federal diversity jurisdiction over this civil action. *See* 28 U.S.C. § 1332(a) (2005).

#### **A. Complete Diversity Exists Between Plaintiff and Defendant**

5. Plaintiff in this action is a North Carolina non-profit corporation with its principal place of business in Mecklenburg County, North Carolina. *Complaint*, ¶ 1.

6. Defendant in this action is a corporation organized under the laws of the State of Ohio and is authorized to conduct business in the State of North Carolina, ¶ 2.

#### **B. The Amount in Controversy Exceeds \$75,000.00, Exclusive of Interest and Costs.**

7. Plaintiff seeks compensatory, treble damages as a result of the Defendant's alleged wrongful conduct.

8. Pursuant to the Complaint, Plaintiff states that as a result of the Defendant's alleged wrongful conduct, they are entitled to recover damages, including, but not limited to, the following:

- (a) Award Plaintiff damages for Defendant's breach of contract in an amount to be at least \$25,000.00;
- (b) Award Plaintiff damages for Defendant's unfair trade/claims practices in an amount to be at least \$25,000.00;
- (c) An award of treble damages, attorney's fees and costs.

*Complaint, Prayer for Relief.*

9. Given the nature of Plaintiff's claim and pre-suit demands coupled with Plaintiff's request for treble damages, it is clear the relief Plaintiff seeks in this action exceeds \$75,000.00

**IV. REMOVAL TO THIS DISTRICT COURT IS PROPER**

10. Venue is proper in the United States District Court for the Western District of North Carolina because the Superior Court of Mecklenburg County, North Carolina sits within this federal district. *See*, 28 U.S.C. § 1446(a); 28 U.S.C. § 1391(a) (2002).

**V. CONSENT AND REMOVAL REQUIREMENTS**

11. Pursuant to 28 U.S.C. § 1446(a), copies of all process, pleadings, and orders served to date upon Defendant in this matter are attached hereto as Exhibit A.

12. All Defendant(s) consent to this Notice of Removal and join in the same.

13. This Notice of Removal will promptly be served on Plaintiff, and a notice of its filing will be promptly filed with the Clerk of Superior Court of Mecklenburg County, North Carolina, pursuant to 28 U.S.C. § 1446(d).

**VI. RESERVATION OF RIGHTS**

14. Defendant hereby reserves any and all rights to assert any defenses to Plaintiff's Complaint.

15. Defendant hereby reserves the right to amend or supplement this Notice of Removal.

WHEREFORE, Defendant, Westfield Insurance Company, by and through undersigned counsel, hereby give notice that the above-entitled matter has been timely removed to this Court.

This the 23rd day of June, 2021.

*/s/ John T. Jeffries*

JOHN T. JEFFRIES

Bar No: 22134

Attorney for Westfield Insurance Company

McAngus Goudelock & Courie, PLLC

Post Office Box 30307

Charlotte, North Carolina 28230

(704) 643-6303

jjeffries@mgclaw.com

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing document was served upon all counsel of record by electronic mail addressed as follows:

Jeffrey A. Long  
Bray & Long, PLLC  
2820 Selwyn Avenue, Suite 400  
Charlotte, North Carolina 28209  
Attorney for Heathrow on Harris Homeowners Association

Charles Bridgmon  
Bray & Long, PLLC  
2820 Selwyn Avenue, Suite 400  
Charlotte, North Carolina 28209  
Attorney for Heathrow on Harris Homeowners Association

This the 23rd day of June, 2021.

*/s/ John T. Jeffries*  
JOHN T. JEFFRIES